THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NOS.17180, 17327, 17877, 18095, 16798, 18638, 16286 AND 18933 OF 2005

DATE: 13th JUNE 2006

W.P.No.17180 of 2005:

Between:

1. D.Nageswar Rao, son of Satyanarayana,
aged 48 years, Occu: Agriculture and
Ex-President of Primary Agricultural
Cooperative Society, Madhavapur,
Resident of Madhava Nagar, Nizamabad
Mandal, Nizamabad District and 2 others.

…. Petitioners.

And

1. The Collector (Cooperation),
Nizamabad District, Nizamabad
and 2 others.

…. Respondents.

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W.P.NO.17327 OF 2005:

Begtween:

1. Parupalli Rakesh, son of P.Babu Rao,

aged 38 years, Occ: Agriculture,

Ex-President, Brahmanapally Primary

Agricultural Coop Society Ltd.,

R.No.4425 TE Brahmanapally village,

Bonakal Mandal, Khammam District.

…. Petitioner.

And

1. The Government of Andhra Pradesh,

Agricultural & Cooperation (Coop V)

Dept., Secretariat, Hyderabad,

Rep. By its Principal Secretary

and 5 others.

…. Respondents.

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W.P.NO.17877 OF 2005:

Between:

1. A.Kashaiah, son of Eswaraiah,

aged 45 years, Occ: Agriculture.

2. M.Mogulaiah, son of Suthaiah,

aged 32 years, Occ: Agriculture.

(Both are residents of Devnoor village,

Regode Mandal, Medak District)

…Petitioners.

And

1. The District Collector,

Medak District at Sangareddy

and 3 others.

…. Respondents.

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W.P.NO.18095 OF 2005:

Between:

A.Rajendra Reddy, son of Ramachandra Reddy,

aged 59 years, resident of Arogonda village,

Thavanampalli Mandal, Chittoor District.

…. Petitioner.

And

1. The Government of Andhra Pradesh,

Agricultural & Cooperation (Coop V) Dept.,

Secretariat, Hyderabad,

Rep. By its Principal Secretary

and 5 others.

…. Respondents.

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W.P.NO.16798 OF 2005:

Between:

V.Sridhar Naidu, son of V.Seshachalam Naidu,

aged 49 years, Kondroju Kaluva village,

Thavanampally Mandal, Chittoor District.

…. Petitioner.

And

1. The Government of Andhra Pradesh,

Agricultural & Cooperation (Coop V) Dept.,

Secretariat, Hyderabad,

Rep. By its Principal Secretary

and 6 others.

…. Respondents.

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W.P.NO.16286 OF 2005:

Between:

V.Sridhar Naidu, son of V.Seshachalam Naidu,

aged 49 years, Kondroju Kaluva village,

Thavanampally Mandal, Chittoor District.

… Petitioner.

And

1. The Government of Andhra Pradesh,

Agriculture & Cooperation (Coop V) Dept.,

Secretariat, Hyderabad,

Rep. By its Principal Secretary

and 11 others.

…. Respondents.

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W.P.NO.18638 OF 2005:

Between:

1. L.Vishnu Vardhan Reddy,

son of L.Durga Reddy, aged 38 years,

Occ: Agriculture/Former President PACS,

Shetpally Sangareddy, Lingampet Mandal,

Nizamabad District and 2 others.

…. Petitioners.

And

1. The State of Andhra Pradesh,

rep. By its Principal Secretary Department

of Co-operation, A.P. Secretariat, Hyderabad

and 3 others.

…. Respondents.

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W.P.NO.18933 OF 2005:

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Between:

Nanduri Chakradharudu, son of Veerraju,

Aged 40 years, Occ: cultivation, resident

of Koti Village, Korukonda Mandal,

E.G.District.

…. Petitioner.

And

1. The Government of Andhra Pradesh,

represented by its Principal Secretary,

(Agriculture and Coop), Secretariat Buildings,

Secretariat, Hyderabad and 4 others.

…. Respondents.

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COMMON ORDER:

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Since the questions of law and fact arising in all these writ petitions are identical, they are being disposed of together by a common order.

2. For the purpose of appreciation of facts, the facts as mentioned in W.P.No.17108 of 2005 are taken into consideration.

3. It is the case of the petitioners that under Section 15-A of A.P. Cooperative

Societies Act, 1964, (for short 'the Act') the Collector (Cooperation), Nizamabad, issued proceedings dated 21.06.2005 proposing amalgamation of non-viable societies in Nizamabad Mandal with Madhavanagar society/societies, identified focal non-viable society/societies as per annexure-1 and invited objections and suggestions from the societies to be filed within 21 days. In response to the same, the society of the petitioners passed unanimous resolution accepting the proposal as per annexure-1. The proceedings dated 21.06.2005 contemplates amalgamation of non-viable societies i.e., PACS. Kaloor and PACS. Khanapoor with Madhavanagar as focal point society. However, in the final proceedings dated 25.07.2005 passed by the Collector (Cooperation), Nizamabad, altogether a different decision was taken. Neither it is contemplated and proposed as per annexure-1 nor any fresh proposals were notified. As per the annexure-1 to the proceedings dated 25.07.2005 even Madhavanagar PACS is sought to be amalgamated with Muthakunta PACS pointing out that Muthakunta is a focal point PACS. Aggrieved by the same, the present writ petition is filed.

4. Learned counsel for the petitioners strenuously contends that though a notice was issued by the respondents by a notification-dated 21.06.2005 calling for objections to the proposed amalgamation of PACS Kaloor and PACS Khanapoor with that of PACS Madhavanagar. Madhavanagar PACS passed a resolution and accepted for the same. But in the final proceedings altogether a different decision has been taken which was not proposed as per the proceedings dated 21.06.2005. Apart from this, the petitioner was not put on notice as to the amalgamation as contemplated in final proceedings and as such the impugned order also suffers from being violative of principles of natural justice. Therefore, the impugned order is liable to be set aside.

5. Per contra, learned Government Pleader appearing for the respondents strenuously contended that as per the powers vested in the respondent under Section 15-A (e) of the Act a notification was issued and thereafter as per Section 15-A(2) of the Act such a modification in the proposal as he may deems fit by the authorities is permissible. Therefore, the contention of the learned counsel for the petitioner that they are entitled for a notice before the

publication of modified scheme is without any substance. The impugned order is perfectly valid and justified and this court under Article 226 of the Constitution of India can make no interference.

6. I have given my earnest consideration to the respective submissions made on either side and perused the impugned order and other material made available on record.

7. There is no dispute as to vesting of power with the Collector (Cooperation) under Section 15-A of the Act for identification of viable societies and taking consequential action thereof. In the public interest he may identify the viable and non-viable societies which may be retained or divided with consequential restriction of the area of operation or the transfer of such area or amalgamated or liquidated, as the case may be, and may, by a notification to be published in the prescribed manner, specify the area of operation of each such society or societies to be retained, divided or amalgamated with any other society indicated in the said notification and invite objections or suggestions from the societies or any members, depositors, creditors, employees etc., In fact, the notification dated 21.06.2005 was issued to amalgamate two Primary Agriculture Cooperative Societies i.e., PACS Kaloor and PACS Khanapoor with Madhavnagar PACS which reads as under:

NAME OF DISTRICT: NIZAMABAD

NAME OF THE MANDAL: NIZAMABAD

Name of the identified Non-viable PACS as focal point society with headquarters	Names of the villages in the area of focal point non-viable society	Names of non-viable societies proposed for amalgamation with the focal society of col.(1)	
		Name(s) of the society(ies)	Names of villages in area of operation
1	2	3	4

MADHAVNAGAR	1.Madhavnagar PACS.Kaloor 1.Kaloor 2.Pangra PACS.Khana- 1.Khanapoor poor 2.Malkapoor 3.Laxmapoor 4.Sarangapoor

8. Whereas, as noticed above in the final notification issued on 25.07.2005 altogether a different decision was taken amalgamating the Madhavnagar PACS with that of Muthakunta, which was not contemplated in the proposals made on 21.06.2005 which reads as under:

NAME OF DISTRICT: NIZAMABAD

NAME OF THE MANDAL: NIZAMABAD

Name of the identified non-viable PACS as focal point society with headquarters	Names of the villages in the area of focal point non-viable society	Names of non-viable societies amalgamated with the focal society of col.(1)	
		Name(s) of the society(ies)	Names of villages in area of operation
1	2	3	4
MUTHAKUNTA 1. Muthakunta PACS.MADHAVNAGAR 1.Madhavanagar 2. Malkapoor 2.Pangra 3. Mallaram PACS.Muthakunta 1.Muthakunta 4. Dharmaram 2.Malkapoor 5. Kothapeta 3.Mallaram 4.Dharmaram 5.Kothapeta			

9. Therefore, the contention of the learned Government Pleader that in view of clause (2) of Section 15-A of the Act, such modification of proposals deemed fit is permissible by the authorities and as such they have taken such a decision by modification, cannot be accepted. The modification contemplated under sub-clause (2) of Section 15-A of the Act must be in tune with the proposals made and published under Section 15-A (1)(e) of the Act and it cannot be altogether a different one. Once if a modification as contemplated under sub-clause (2) of Section 15-A of the Act is made as per the notification probably what the learned Government Pleader says is correct. In other words instead of merging

with one society proposed, in the final proceedings the authorities can make modification merging with some other society. But in the preliminary/proposals both societies must find place. Otherwise such modification is not valid. In this case, admittedly, as noticed above in the final proceedings altogether a different modification was made ordering merger of the petitioners' society with a society which does not find place in the preliminary/proposed notification. Such a modification can not be said to be a valid modification under Section 15-A(2) of the Act. Therefore, issuance of the impugned proceedings is contrary to the provisions of Section 15-A of the Act and illegal. Since the petitioners were not put on notice as to the amalgamation as contemplated in final proceedings, the impugned orders are liable to be set aside and accordingly set aside and the respondents are directed to proceed with the matter as per law and pass appropriate orders after putting the petitioners all concern in notice as to the amalgamation. In all the writ petitions the preliminary notification and final notification are different.

10. All the writ petitions are accordingly allowed. No costs.

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C.V.RAMULU, J.

Date: 13th June 2006.

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